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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,148	08/22/2003	Joseph P. Yock	RWZ/75U	8714
26875	7590	11/23/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				HESS, BRUCE H
ART UNIT		PAPER NUMBER		
		1774		

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/646,148	Applicant(s)	YOCK, JOSEPH P.
Examiner	Bruce H Hess	Art Unit	
		1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 7-19-04 (election)

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

1, 2, 4, 6-15, 17-21 and 40-45

4) Claim(s) \_\_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 2, 4, 6-15, 17-21 and 40-45 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
- Paper No(s)/Mail Date 12-5-03 and 2-9-04

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

1. All claims (i.e., 1, 2, 4, 6-15, 17-21 and 40-45) are rejected under 35 U.S.C. 112, (first paragraph) as being broader than the enabling disclosure.

Applicant's specification is enabled to the extent that a mixture of sublimation dye and printing are applied at the same time. Neither of these materials "overlaps" or is "in registry with" the other since both the sublimation dye and printing ink occupy the same space in the same plane. The specification does not enable the situation where one of the colorants overlaps or is in registry with the other colorant. Both of the terms "overlap" and "registry" imply covering or super-imposition.

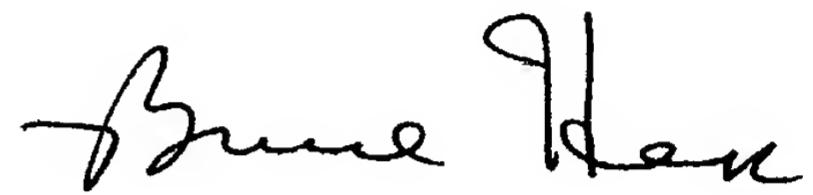
2. Claims 1, 4, 9, 11-13, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Ray et al (U.S.P. 4,308,679) in view of the patent to Krutak et al (U.S.P. 6,174,400).

Ray et al teach a consumer product package having a promotional item attached thereto. The promotional item bears a heat transferable image. Krutak et al teach the advantages of employing heat transferable images, which contain both a visible dye and a material visible only under fluorescent light. The transfer thus gives a "transferable image" and a "visible image". Given the advantages (i.e., a security feature) of the Krutak et al image, use of the Krutak et al transferable image as the generically disclosed transferable image of Ray et al would have been obvious to one of ordinary skill in this art in the absence of unexpected results. Finally, the experimental modification of this prior art in order to ascertain optimum operating conditions (e.g., determine coating thickness) fails to render applicants' claims patentable in the absence

of unexpected results (see Ray et al at column 2, lines 55-61 and Krutak et al at column 1, lines 65-67).

Any inquiry concerning this communication should be directed to Bruce Hess at telephone number (571) 272-1525.

B. Hess/dh  
October 26, 2004



BRUCE H. HESS  
PRIMARY EXAMINER  
GROUP 1300